

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER  
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MS JUSTICE G.ROHINI**

**WRIT PETITION NO : 16534 of 2004**

Between:

C. Devasahayam S/o Late Devasikhamani  
Fair Price Shop Dealer, Ward No.8,

Nandikotkur Village & Mandal, Kurnool district

**..... PETITIONER**

AND

- 1 The Revenue Divisional Officer, Kurnool
- 2 The Mandal Revenue Officer, Nandikotkur Mandal, Kurnool District

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction, preferable to the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing the oral instructions to fair price shop dealer of Ward 25 of Nandikotkur to distribute the commodities of the petitioner's Fair Price Shop of Ward No.8 of Nandikotkur ignoring the petitioner who is a permanent dealer and whose license and authorization is subsisting, only yielding to the political pressures, as illegal, arbitrary and violation of Article 14, 19 21 of Constitution of India and consequently direct the respondents to allow the petitioner to distribute the commodities for the said shop.

**Counsel for the Petitioner: MR.K.RATHANGA PANI REDDY**

**Counsel for the Respondents: GP FOR CIVIL SUPPLIES**

**The Court at the stage of admission made the following Order:**

The petitioner is an authorised dealer of a Fair Price Shop. According to the petitioner, the authorisation issued in his favour is subsisting and the same is neither suspended nor cancelled as on today. It is alleged that in spite of the fact that the authorisation is subsisting, the respondents failed to supply the essential commodities for distribution to the card-holders. Hence, this writ petition challenging the alleged action of the respondents in not supplying the essential commodities for distribution to the card-holders.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

Even assuming that the proceedings under Section 6-A of the Essential Commodities Act, 1955 or any other enquiry with regard to the alleged irregularities in distribution of the essential commodities are pending against the dealer, the question is whether the authorities can refuse to supply the essential commodities to the dealer without either suspending or cancelling the authorisation.

This issue has been considered by a Full Bench of this Court in *OLETI TIRUPATHAMMA v. DISTRICT SUPPLY OFFICER (CITY), VISAKHAPATNAM AND OTHERS* and while concluding that in such circumstances the proceedings under Article 226 of the Constitution of India are maintainable, it has been held as under:

The High Court while exercising its jurisdiction under Article 226 of the Constitution of India, acts sentinel qui vive and thus it has to protect the citizen from arbitrary and capricious action of the executive. If the licensing authority themselves upon application of mind come to the conclusion that the irregularities committed by the fair price shop dealer would warrant suspension of his licence, it may

do so. But, in our considered opinion, the authority without taking recourse to the said action, cannot, refuse to supply the essential commodities.”

In the light of the ratio laid down by the Full Bench in the above decision, the writ petition is disposed of with a direction to the respondents to supply the essential commodities to the petitioner in case he is holding a valid authorisation and the same is neither suspended nor cancelled as on today. It is made clear that this shall not preclude the respondents to initiate appropriate proceedings against the petitioner if the circumstances so warrant, following due process of law.

The writ petition is accordingly disposed of. No costs.

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25-10-2004

kdl

To

- 1 The Revenue Divisional Officer, Kurnool
- 2 The Mandal Revenue Officer, Nandikotkur Mandal, Kurnool District
- 3 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad, (OUT).
- 4 Two C.D. Copies.